

High-Net-Worth Divorce in New York

Dividing businesses, complex assets, executive compensation, and retirement — and protecting your interests when the stakes are high.

1. — What Makes a High-Net-Worth Divorce Different

New York divides marital property by **equitable distribution** (DRL § 236(B)(5)) — a fair, not necessarily equal, division. In high-net-worth cases the legal principles are the same, but the complexity, the need for expert valuation, and the consequences of mistakes are far greater. Privacy, tax exposure, and the time required also increase.

2. — Valuing a Business or Professional Practice

A business or professional practice built or grown during the marriage is typically marital property subject to distribution. Valuation usually requires a forensic accountant and may involve:

- **Valuation method** — income, market, or asset approaches, often blended.
- **Active vs. passive appreciation** — growth from a spouse's efforts is generally marital; growth from purely market forces on separate property may not be.
- **Goodwill** — New York distinguishes enterprise goodwill from purely personal goodwill.
- **Double-dip concerns** — avoiding counting the same income stream as both a distributable asset and a source of maintenance.

3. — Executive & Deferred Compensation

Compensation beyond salary is often the largest contested asset. Restricted stock units (RSUs), stock options, and deferred compensation that were granted during the marriage — even if they vest later — usually have a marital component. Courts frequently use a **time-rule (coverture) fraction** to allocate what portion is marital, depending on whether a grant rewards past or future services.

4. — Real Estate & Other Assets

Multiple homes, investment properties, art, collections, closely held interests, and crypto all require careful valuation and a plan for division or offset. Carrying costs, capital-gains exposure, and liquidity differ from asset to asset, so 'equal on paper' is not always equal after tax.

5. — Retirement Accounts & Pensions

Retirement assets earned during the marriage are marital property. Pensions are commonly divided using the **Majauskas** formula and a Qualified Domestic Relations Order (QDRO); 401(k)s and 403(b)s are divided by QDRO; IRAs transfer differently (a transfer incident to divorce). Proper drafting avoids taxes and penalties on the transfer.

6. — Finding Hidden Assets

Full financial disclosure is mandatory. New York requires a sworn **Statement of Net Worth** (22 NYCRR 202.16) and allows broad discovery under DRL § 236(B)(4) — subpoenas, depositions, and document demands. Where concealment is suspected, forensic accountants trace funds through business accounts, unreported income, and transfers to third parties. A spouse who dissipates or hides assets can be penalized in the distribution.

7. — Taxes & Privacy

Cost basis, capital gains, and the after-tax value of each asset should drive the negotiation, not just headline numbers. High-profile parties also often use confidentiality provisions and, where appropriate, sealing of sensitive financial records to protect privacy.

8. — Maintenance Above the Cap

In high-income cases the payor's income usually exceeds the maintenance income cap (\$241,000 as of March 1, 2026) and the child support cap (\$193,000). Support above those caps is discretionary, so experienced advocacy and a well-documented standard of living matter a great deal.

9. — Frequently Asked Questions

Is my business automatically split 50/50?

No. New York is equitable-distribution, not community property. The marital portion of a business is divided fairly based on statutory factors — often through a buyout or offset against other assets rather than co-ownership.

Can I keep my company?

Frequently, yes. One common outcome is that the business-owner spouse keeps the company and the other spouse receives offsetting assets or a structured buyout equal to their share of the marital value.

Are stock options and RSUs divisible if they haven't vested?

Often yes. Unvested equity granted during the marriage usually has a marital component, allocated with a time-rule fraction depending on whether it rewards past or future work.

What if I think my spouse is hiding money?

Mandatory disclosure plus broad discovery and forensic accounting can uncover concealed income and assets. Courts can sanction a spouse who hides or dissipates assets.

How is separate property protected?

Assets owned before the marriage, inheritances, and third-party gifts are generally separate — but commingling or active appreciation can convert them. Clear records and, ideally, a prenuptial or postnuptial agreement help protect them.

Ready to speak with an attorney?

Call **(716) 759-4529** for a free, confidential consultation, or book online at www.weinrieblaw.com/contact-us.html

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